

116. (Twice Amended) A polypeptide having from 70% to 100% homology with [the] a polypeptide [of claim 114] consisting of amino acids 1-325 of SEQ ID NO: 4, wherein the polypeptide induces the production of neutralizing antibodies that recognize one or more strains of *N. meningitidis*.
126. (Twice Amended) A polypeptide having from 70% to 100% homology with [the] a polypeptide [of claim 125] consisting of amino acids 346-543 of SEQ ID NO: 2, wherein the polypeptide induces the production of neutralizing antibodies that recognize one or more strains of *N. meningitidis*.

### REMARKS

The applicants object to the making of the instant Office Action "final" and request that the finality be withdrawn. The present Office Action newly rejects claims 83-106, 108-113, 116-124, and 126-131 under 35 U.S.C. § 112, 1<sup>st</sup> paragraph, as non-enabled and asserts that this new rejection was necessitated by the applicant's amendment. The applicants respectfully submit, however, that this is not the case. The prior response merely amended the claims to change the dependency owing to incorrect claim numbering in the claims when they were added. Accordingly, claims to the same and similar subject matter were previously pending and the present enablement rejection could have and should have been raised in the prior Office Action. For example, independent claims 83, 107, and 117 were previously pending yet no enablement rejection made. Consequently, making the present Office Action final is inappropriate.

### Claim Objections

Claims 108-113, 116, and 126-131 were rejected for being in improper dependent format.

Claims 108, 116, and 126 have been amended herein to incorporate explicitly the matter